



**6450-01-P**

**DEPARTMENT OF ENERGY**

**Western Area Power Administration**

**2021 Resource Pool, Pick-Sloan Missouri Basin Program -- Eastern Division**

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of procedures and call for 2021 Resource Pool applications.

**SUMMARY:** The Department of Energy (DOE), Western Area Power Administration (WAPA), a Federal power marketing administration of DOE, is publishing procedures and calling for applications from new preference entities interested in an allocation of Federal power. WAPA published its 2021 Power Marketing Initiative (2021 PMI) for the Upper Great Plains Customer Service Region (UGPR) in the *Federal Register* on November 16, 2011. The 2021 PMI specifies the terms and conditions under which WAPA will market power from the Pick-Sloan Missouri Basin Program -- Eastern Division (P-SMBP--ED) beginning January 1, 2021, continuing through December 31, 2050. The 2021 PMI established resource pools for 2021, 2031, and 2041. Each resource pool is comprised of up to 1 percent (approximately 20 megawatts) of the long-term marketable resource of the P-SMBP--ED. Therefore, as required by the 2021 PMI, WAPA is issuing a call for applications for UGPR's 2021 Resource Pool. New preference entities interested in applying for an allocation of power from WAPA's UGPR must submit a formal application using the Applicant Profile Data (APD) form and must meet the General Eligibility Criteria, General Allocation Criteria, and General Contract Principles.

**DATES:** Applications must be received by 4 p.m., MDT, on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. WAPA will accept applications through its online APD form, by email, or by U.S. mail (or its equivalent).

Applications sent by U.S. mail will be accepted if postmarked at least 3 days before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, and received no later than **[INSERT DATE 63 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit an application online at

<https://www.wapa.gov/regions/UGP/PowerMarketing/Pages/2021-resource-pool.aspx> or access and print the APD form located at

<https://www.wapa.gov/regions/UGP/PowerMarketing/Pages/2021-resource-pool.aspx> and email it as an attachment to [UGP2021resourcepool@wapa.gov](mailto:UGP2021resourcepool@wapa.gov). If submitting a paper application, please mail it to Mr. Jody Sundsted, Senior Vice President and Upper Great Plains Regional Manager, Upper Great Plains Customer Service Region, Western Area Power Administration, 2900 4<sup>th</sup> Avenue North, Billings, MT 59101-1266.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Senitte, Public Utilities Specialist, Upper Great Plains Customer Service Region, Western Area Power Administration, 2900 4<sup>th</sup> Avenue North, Billings, MT 59101, telephone (406) 255-2933, email [senitte@wapa.gov](mailto:senitte@wapa.gov).

**SUPPLEMENTARY INFORMATION:**

The 2021 PMI (76 FR 71015, November 16, 2011) extended the then current Marketing Plan Principles with amendments to establish how UGPR will market its power resources beginning January 1, 2021, through December 31, 2050.<sup>1</sup> As part of the 2021 PMI, WAPA will provide for

---

<sup>1</sup> The 2021 Marketing Plan Principles are based on the 1985 Marketing Plan (45 FR 71860, October 30, 1980), as extended and amended by Subpart C of the Energy Planning and Management Program final rule (60 FR 54151, October 20, 1995) (EPAMP or Program) and the final procedures of the Post-2000 Resource Pool (61 FR 41142, August 7, 1996), the Post-2005 Resource Pool (68 FR 67414, December 2, 2003), and the Post-2010 Resource Pool (74 FR 20697, May 5, 2009). The 2021 Marketing Plan Principles amended the 1985 Marketing Plan to (1)

resource pools of up to 1 percent of the marketable resource under contract at the time, beginning in the contract term (January 1, 2021) and again every 10 years (January 1, 2031, and January 1, 2041). These resources are made available for eligible new preference entities. The procedures used to determine new preference customer eligibility in all three resource pools under the 2021 PMI are carried forward from the Post-2010 Resource Pool as published in the *Federal Register* (74 FR 20697, May 5, 2009). Specifically these procedures are the General Eligibility Criteria,<sup>2</sup> General Allocation Criteria, and General Contract Principles.

After evaluating applications, if WAPA determines there is an eligible new preference entity, WAPA will publish a notice of Proposed Allocations in the *Federal Register*. The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a notice of Final Allocations in the *Federal Register*. If there are no qualified applicants under the 2021 Resource Pool, WAPA will publish a notice in the *Federal Register* to conclude the 2021 Resource Pool.

## **2021 Resource Pool Allocation Procedures and Call for Applications**

### **I. Amount of Pool Resources**

WAPA will allocate up to 1 percent (approximately 20 megawatts) of the P-SMBP--ED long-term firm hydroelectric resource available as of January 1, 2021, as firm power to eligible new preference customers. Firm power means capacity and associated energy allocated by WAPA and subject to the terms and conditions specified in the WAPA electric service contract.

### **II. General Eligibility Criteria**

---

include a 30-year contract term for firm electric service contracts, beginning January 1, 2021, and (2) establish three resource pools for eligible new preference entities beginning in January 2021, and again every 10 years (January 1, 2031, and January 1, 2041).

<sup>2</sup> Under General Eligibility Criteria II (E) below for each resource pool, qualified utility applicants must meet utility status no later than 3 years prior to the beginning of that resource pool contracting term. For the 2021 Resource Pool, that date is January 1, 2018.

WAPA will apply the following General Eligibility Criteria to applicants seeking an allocation of firm power under the 2021 Resource Pool Allocation Procedures.

A. All qualified applicants must be preference entities as defined by section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), as amended and supplemented.

B. All qualified applicants must be located within the currently established P-SMBP--ED marketing area.

C. All qualified applicants must not be currently receiving benefits, directly or indirectly, from a current P-SMBP--ED firm power allocation or other firm Federal power commitment. Qualified Native American applicants, who did not receive an allocation from the Post-2000, Post-2005, or Post-2010 Resource Pools, are not subject to this requirement.

D. Qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. Qualified utility applicants that desire to purchase power from WAPA for resale to consumers, including cooperatives, municipalities, public utility districts, and public power districts must have met utility status by January 1, 2018. Utility status means the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from WAPA on a wholesale basis.

F. Qualified Native American applicants must be an Indian tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 5304, as amended.

### **III. General Allocation Criteria**

WAPA will apply the following General Allocation Criteria to applicants seeking an allocation of firm power under the 2021 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by WAPA in

exercise of its discretion under Federal Reclamation Law.

B. An allottee will have the right to purchase such firm power only upon executing an electric service contract between WAPA and the allottee, and satisfying all conditions in that contract.

C. Firm power allocated under these procedures will be available only to new preference customers in the existing P-SMBP--ED marketing area. The marketing area of the P-SMBP--ED is Montana (east of the Continental Divide), all of North Dakota and South Dakota, Nebraska east of the 101° meridian, Iowa west of the 94½° meridian, and Minnesota west of a line on the 94½° meridian from the southern boundary of the state to the 46° parallel and then northwesterly to the northern boundary of the state at the 96½° meridian.

D. Allocations made to Native American tribes will be based on the actual load experienced in calendar year 2017. WAPA has the right to use estimated load values for calendar year 2017 should actual load data not be available. WAPA will adjust inconsistent estimates during the allocation process.

E. Allocations made to qualified utility and non-utility applicants will be based on the actual loads experienced in calendar year 2017. WAPA will apply the 2021 PMI criteria to these loads.

F. Energy provided with firm power will be based upon the customer's monthly system load pattern.

G. Any electric service contract offered to a new customer shall be executed by the customer within 6 months of a contract offer by WAPA, unless otherwise agreed to in writing by WAPA.

H. The resource pool will be dissolved subsequent to the closing date of the last qualified applicant to execute their respective firm electric service contract. Firm power not under contract will be used in accordance with the 2021 PMI.

I. The minimum allocation shall be 100 kilowatts (kW).

J. The maximum allocation for qualified utility and non-utility applicants shall be 5,000 kW.

K. Contract rates of delivery shall be subject to adjustment in the future as provided for in the Program.

L. If unanticipated obstacles to the delivery of hydropower benefits to Native American tribes arise, WAPA retains the right to provide the economic benefits of its resources directly to these tribes.

#### **IV. General Contract Principles**

WAPA will apply the following General Contract Principles to all applicants receiving an allocation of firm power under the 2021 Resource Pool Allocation Procedures.

A. WAPA shall reserve the right to reduce a customer's summer season contract rate of delivery by up to 5 percent for new project pumping requirements, by giving a minimum of 5 years' written notice in advance of such action.

B. WAPA, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' written notice in response to changes in hydrology and river operations. Any such adjustments shall only take place after a public process by WAPA.

C. Each allottee is ultimately responsible for obtaining its own third-party delivery arrangements, if necessary. WAPA may assist the allottee in obtaining third-party transmission arrangements for the delivery of firm power allocated under these procedures to new customers.

D. Contracts entered into under the 2021 Resource Pool Allocation Procedures shall provide for WAPA to furnish firm electric service effective from January 1, 2021, through December 31, 2050.

E. Contracts entered into as a result of these procedures shall incorporate WAPA's standard

provisions for power sales contracts, integrated resource planning, and the General Power Contract Provisions.

## **V. Applications for Firm Power**

Through this *Federal Register* notice, WAPA formally requests applications from new qualified preference entities interested in purchasing power from UGPR from January 1, 2021, through December 31, 2050. All applicants must submit applications using the APD form. WAPA has a uniform basis upon which to evaluate the applications. To be considered, applicants must meet the General Eligibility Criteria, General Allocation Criteria, and General Contract Criteria, and must submit a completed APD application form by the deadline specified in the **DATES** section. To ensure full consideration is given to all applicants, WAPA will not consider applications submitted before publication of this *Federal Register* notice or after the deadline specified in the **DATES** section.

### *Applicant Profile Data Application*

Applications may be completed online on WAPA's web page at <https://www.wapa.gov/regions/UGP/PowerMarketing/Pages/2021-resource-pool.aspx> or submitted by email or mail, as described in the **ADDRESSES** section. The APD form is available on WAPA's web page or by request to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. It is the applicant's responsibility to ensure the application is submitted in a timely manner so WAPA receives the application before the dates and times stated in the **DATES** section.

Applicants must provide all information requested or the most reasonable available estimate on the APD form. Please indicate if the requested information is not applicable. WAPA is not

responsible for errors in data or missing pages. The information in the APD form should be answered as if prepared by the entity/organization seeking the allocation of Federal power.

The information collected under this process will not be part of a system of records covered by the Privacy Act and may be available under the Freedom of Information Act. If you are submitting any confidential or business sensitive information, please mark such information before submitting your application.

#### *WAPA's Consideration of Applications*

When WAPA receives the APD, WAPA will verify the applicant meets the General Eligibility Criteria, and the application contains all items requested in the APD.

WAPA may request, in writing, additional information from any applicant whose APD is determined to be deficient. The applicant shall have 15 days from the postmark date on WAPA's request to provide the information. In the event an applicant fails to provide all information to WAPA, the application will not be considered.

If WAPA determines the applicant does not meet the General Eligibility Criteria, WAPA will send a letter explaining why the applicant did not qualify.

If the applicant has met the General Eligibility Criteria, WAPA will determine the amount of firm power, if any, to allocate pursuant to the General Allocation Criteria. After the publication of final allocations in the *Federal Register*, WAPA will send a draft contract to the applicant for review which identifies the terms and conditions of the offer and the amount of firm power allocated to the applicant.

All firm power shall be allocated according to the procedures in the General Allocation Criteria.



WAPA reserves the right to determine the amount of firm power to allocate to an applicant, as justified by the applicant in its APD.

#### *Recordkeeping Requirement*

If WAPA accepts an application and the applicant receives an allocation of Federal power, the applicant must keep all information related to the APD for a period of 3 years after signing a contract for Federal power. There is no recordkeeping requirement for unsuccessful applicants who do not receive an allocation of Federal power.

As noted in Section VII of this notice, WAPA has obtained Office of Management and Budget Clearance Number 1910-5136 for collection of the above information. The APD is collected to enable WAPA to properly perform its function of marketing limited amounts of Federal hydropower. The data supplied will be used by WAPA to evaluate who will receive an allocation of Federal power.

### **VI. Authorities**

UGPR's 2021 PMI, published in the *Federal Register* (76 FR 71015, November 16, 2011), was established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101-7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388) as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts specifically applicable to the projects involved. This action falls within the 2021 PMI and, thus, is covered by the same authority.

### **VII. Regulatory Procedure Requirements**

#### *Environmental Compliance*

In compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347), Council on Environmental Quality NEPA implementing regulations (40 CFR parts 1500-1508),

and DOE NEPA implementing regulations (10 CFR part 1021), WAPA completed a Categorical Exclusion (CX). This NEPA review identified and analyzed environmental effects related to the 2021 PMI. This action falls within the 2021 PMI and, thus, is covered by the CX.

*Review Under the Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.), WAPA has received approval from the Office of Management and Budget for the collection of customer information in this notice, under Control Number 1910-5136. Public reporting burden for the certification is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of law, no person is required to respond to a Federal collection of information unless it displays a valid Office of Management and Budget control number.

*Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this *Federal Register* notice by the Office of Management and Budget is required.

Dated: May 15, 2018.

**Mark A. Gabriel,**

*Administrator.*

[FR Doc. 2018-11418 Filed: 5/25/2018 8:45 am; Publication Date: 5/29/2018]